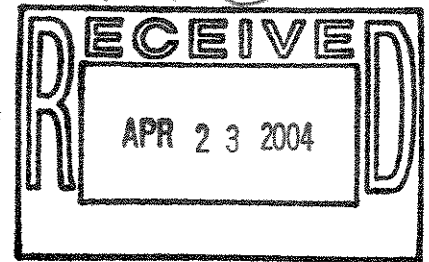


TOWN OF ACTON  
Building Department  
INTERDEPARTMENTAL COMMUNICATION



**To:** Don P. Johnson, Town Manager  
**From:** Garry A. Rhodes, Building Commissioner  
**Subject:** No-build zone 61 Stoneymeade Road

**Date:** April 22, 2004

I am in receipt of a request from Barbara Tibbetts who lives at 61 Stoneymeade Way. She is questioning if a basketball court with fencing could be constructed in the "no-build" area as shown on her plot plan. The "no-build" area finds its origin in restrictive agreement signed by the Board of Selectmen. The "no-build" area extends along most of the frontage on Pope Road that was part of the former Dimare farm.

In the mid-eighties the then Board of Selectmen, in consideration of the release of the Chapter 61A restriction, signed an agreement with Stoneymeade Development Corporation on how the development of the Dimare farm would take place. The agreement provided for a 200' no-build restriction #1.

Condition #1 provides in part "The no-build restriction meaning and intending to include any housing structure or appurtenant structure to a home." I have reviewed the Special Permit issued by the Planning Board for the development of Stoneymeade. The Planning Board did not further restrict the use of the property along Pope only referred to the Board of Selectmen restrictive agreement. I am not sure if the wording of the restrictive agreement would allow Ms. Tibbetts to build a basketball court in the "no-build" area.

*NOTE TO BOS -*

*WE DO NOT HAVE AN OVERALL PLAN  
DETAILING THIS NEGOTIATED "NO-BUILD" ZONE  
SO GARRY HAS PROVIDED INFORMATION ON  
THE SPECIFIC PARCEL IN QUESTION. PART  
OF THE QUESTION HERE IS HOW FAR THE  
BOARD SEES THIS RESTRICTION GOING. DOES  
THE BOARD WISH TO ENFORCE IT AS PROHIBITING  
CLEARING AND/OR LAWN DEVELOPMENT? WOULD  
BASKETBALL AND TENNIS COURTS BE ACCEPTABLE?  
WOULD LIGHTS FOR NIGHT PLAY BE ACCEPTABLE?*

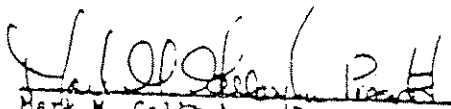
Stoneymeads Development

Corporation agrees upon acquisition of the property presently under Chapter 61A, specified in a Notice of Intent submitted by Dr. Seymour Dimare to the Town of Acton dated Oct. 24, 1986, that they will develop the land with the following restrictions:

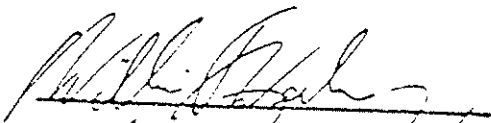
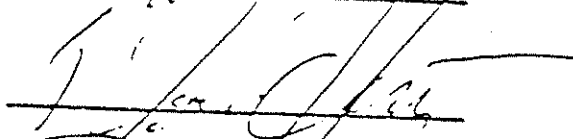
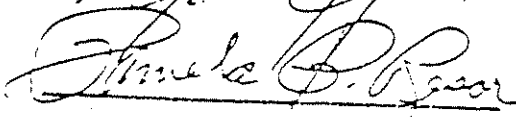

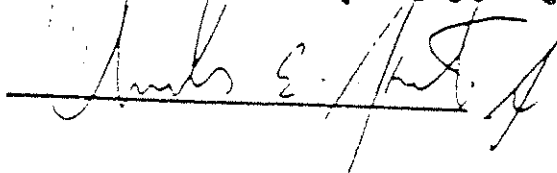
1. A permanent no-build buffer will be created along Pope Road for its entire length, extending from Pope Road's easternmost sideline east for 200' parallel to the sideline. Excepting from this restriction the building lot directly to the north of Bowen's property on Pope Road. The no-build restriction meaning and intending to include any housing structure or appurtenant structure to a home.
2. All open space created through a cluster development on the wooded or southern section of the property will be donated to the Town of Acton or the Acton Conservation Trust for conservation purposes. Such land shall be in a contiguous parcel acceptable by the Planning Board and a suitable portion of land shall abut Concord Conservation Land.
3. The portion of land not designated as a part of the cluster development, meaning and intending that portion of the property presently being used for agricultural purposes, shall be placed in a permanent Agricultural Preservation Restriction with the following exceptions:
  - a. Four A.N.R. lots using frontage on Pope Road between Bowen's Property and Strawberry Hill Road shall not be included within the restriction.
  - b. The existing farmhouse and barn shall be placed within a building square of 4 to 6 acres and this area would not be included within the restrictions.
  - c. The proposed house in the central eastern portion of the fields shall have a building square of 4 acres and this area would not be included within the restriction.
  - d. The triangular parcel of property (shows as Lot 34 on the Town of Acton Assessor's Map G-5) to the north of Pope Road will not be placed under an Agricultural Preservation Restriction at this time.
4. There shall also be the following conditions for the development:
  - a. Any existing buildings may be restored or converted into housing units;
  - b. Excepting the proposed house in the central eastern portion of the field, no new houses shall be built within the area presently being used for agricultural purposes.
  - c. The existing stone tower on the northeast portion of the fields will be placed within the Agricultural Preservation Restriction.

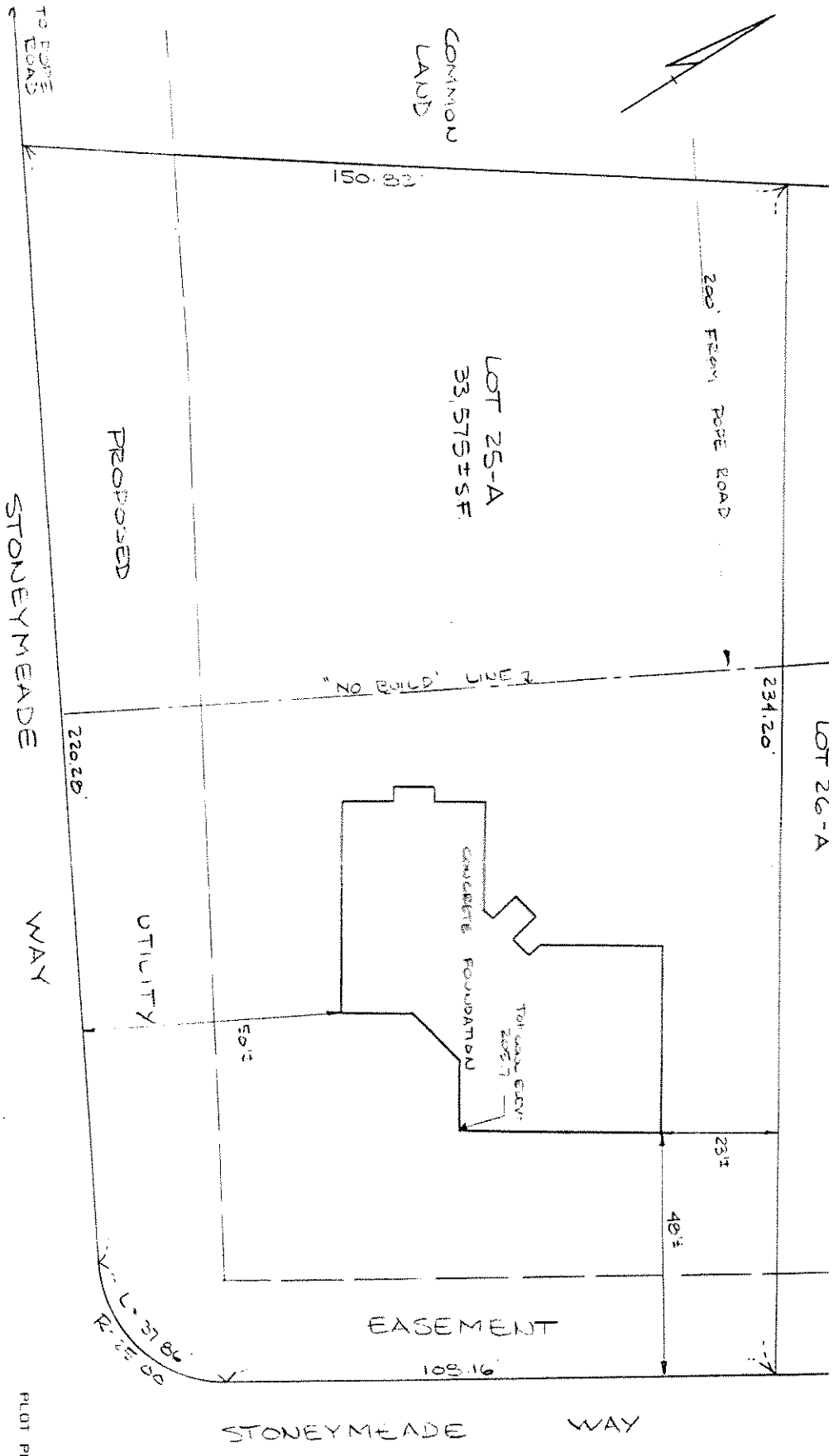
- d. All wetlands on the property specified in the Notice of Intent dated Oct. 24, 1986 shall be placed within conservation restrictions.
- e. The frontage on Pope Road shall be limited to three new road cuts.
5. Upon acquisition of the aforementioned property, Overview Development agrees to record this document at the Middlesex Registry of Deeds and to have it properly referenced to Stoneymeade's deed of record for the property.
6. The Board of Selectmen agree upon receipt of this document signed by authorized representatives of Stoneymeade Dev. Corp. and approval of the Board to release its right of first refusal on the aforementioned property.

STONEYMEADE DEVELOPMENT CORPORATION

  
Mark M. Gallagher, President

Board of Selectmen



I CERTIFY THAT THE FOUNDATION ON THIS PROPERTY IS LOCATED AS SHOWN AND THAT IT CONFORMS TO THE ZONING BYLAWS (DIMENSIONAL SETBACKS) OF THE TOWN OF ACTON, MASS. AND THE FOUNDATION IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON F.I.R.M. COMMUNITY PANEL NO. 250176 C007C1 DATED JANUARY, 1988.

WILLIAM F. MCNARY  
 REG. PROFESSIONAL LAND SURVEYOR  
 DATE 15 APR 92



PLOT PLAN OF LAND  
 IN  
 MASSACHUSETTS  
 ACTION, IN  
 (MIDDLESEX COUNTY)

PREPARED FOR: TIBBETTS  
 SCALE: 1" = 20' APRIL 15, 1992  
 STANSKI AND McNARY, INC.  
 80 HARRIS STREET ACTON, MASS.  
 ENGINEERING - PLANNING - SURVEYING

SM-1120

#61